

**MINUTES FOR THE COURT OF APPEAL
STATE OF CALIFORNIA
SECOND APPELLATE DISTRICT**

June 25, 2003

DIVISION ONE

Court convened at 9:00 a.m.

Present: Spencer, P.J., Ortega, J., Vogel (Miriam A.), J., and D. Nolan, Deputy Clerk.

Each of the following:

B159944 DCFS v. Judith R.

Argument waived, cause submitted.

B159895 Kevin Hawkins
 v.
 City of Los Angeles

Merits:
Argued by Diane Marchant for appellant and by Matthew St. George,
Deputy City Attorney, for respondent. Cause submitted.

B159958 Alfredo Guerra
 v.
 Brian Terry

Merits:
Argued by John Barriage for appellant. Cause submitted.

B162990 Smouse, Pistole & Company
 v.
 Krost, Baumgarten, Kniss & Guerrero

Merits:
Argued by Larry D. Henson for appellant and by Clark Rivera for
respondent. Cause submitted.

DIVISION ONE (Continued)

B164040 Librada Reyno Jazmin
 v.
 Artin Sookasian

Merits:
Argued by Roland Wrinkle for appellant and by Michael Thomas for
respondent. Cause submitted.

B161246 Charisse Maria Chin
 v.
 University of Southern California

Merits:
Argued by Morton Minikes for appellant and by Garrin J. Shaw for
respondent. Cause submitted.

B158099 Michael Rosado
 v.
 Maira Regalado

Merits:
Argued by Michael Rosado, appellant in pro per. Cause submitted.

B161779 Rocky Cola Cafe
 v.
 Golden Eagle Insurance Corporation

Merits:
Argued by Steven W. Murray for appellant and by Kelley K. Beck for
respondent. Cause submitted.

Court adjourned.

June 25, 2003 (Continued)

DIVISION ONE (Continued)

[illegible]

The judgment is affirmed, and the cause is remanded to the trial court with directions to issue a corrected abstract of judgment to reflect Bryant's conviction of attempted voluntary manslaughter, and to forward it to the Department of Corrections.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B160090 People (Not for Publication)
v.
Gonzalez

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B159846 People (Not for Publication)
v.
Mezquita

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION ONE (Continued)

B161779 Rocky Cola Cafe, Inc. (Not for Publication)
v.
Golden Eagle Insurance Corporation

The judgment is affirmed. Golden Eagle is awarded its costs on appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B162000 People (Not for Publication)
v.
Hutton

The judgment is affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B159944 Los Angeles County, D.C.S. (Not for Publication)
v.
Judith R.
In re Brian L., et al.

The order terminating (or denying) reunification services is reversed, and the cause is remanded to the dependency court for reconsideration of that issue after proper notice to Judith and a further hearing; in all other respects, the orders are affirmed.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

June 25, 2003 (Continued)

DIVISION ONE (Continued)

B157591 Vinci (Not for Publication)
v.
Aida Grey, Inc., et al.

The orders of January 31, 2002, and the judgment of February 20, 2002, are affirmed. Aida Grey is entitled to its costs of appeal.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

B154724 Barnard et al. (Certified for Publication)
v.
Langer et al.

The judgment is affirmed. Respondents are awarded sanctions in the amount of \$20,000, payable forthwith by Plaintiffs John and Virginia Barnard, and respondents are also awarded their costs of appeal. The Clerk of this Court is directed to mail a copy of this opinion to the State Bar of California, attention of the Chief Trial Counsel.

Vogel (Miriam A.), J.

We concur: Spencer, P.J.
Ortega, J.

DIVISION TWO

B162043 Clarke (Not for Publication)
v.
Gold et al.

The automatic stay is ordered vacated and the appeal is dismissed. Respondents are awarded their costs on appeal.

Boren, P.J.

We concur: Nott, J.
Doi Todd, J.

DIVISION THREE

B150373 Century Surety Company
v.
United Pacific Insurance Company, et al.

Filed order modifying opinion. (No change in the judgment)

DIVISION FOUR

B156297 Perkins (Not for Publication)
v.
State Farm Mutual Automobile Insurance Company

The judgment is reversed with regard to the first cause of action for breach of the implied covenant of good faith and fair dealing. With regard to the remaining causes of action, the judgment is affirmed. Appellant shall have her costs on appeal.

Hastings, J.

We concur: Epstein, Acting P.J.
Curry, J.

B160316 A S Engineering and Construction (Not for Publication)
v.
Los Angeles Unified School District

The judgment of dismissal is affirmed. Respondent is awarded its costs on appeal.

Hastings, J.

We concur: Vogel (C.S.), P.J.
Curry, J.

DIVISION FOUR (Continued)

B162307 Los Angeles County, D.C.S. (Not for Publication)
 v.
 Jessie T.

The order is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Curry, J.

B158517 People (Not for Publication)
 v.
 Harvey

The judgment is modified by striking the 10-year enhancement imposed under section 12022.5, subdivision (a)(1). This results in a sentence of 15 years to life for murder plus a consecutive term of 25 years to life under section 12022.53, subdivisions (d) and (e)(1). As so modified, the judgment is affirmed. The trial court shall send a corrected abstract of judgment to the Department of Corrections

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Curry, J.

B162320 People (Not for Publication)
 v.
 Graham

The judgment is affirmed.

Vogel (C.S.), P.J.

We concur: Hastings, J.
 Curry, J.

DIVISION SIX

B156035 People (Not for Publication)
v.
Ludaescher

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Yegan, J.

B163626 People (Not for Publication)
v.
Canseco

The judgment is affirmed.

Coffee, J.

We concur: Gilbert, P.J.
Perren, J.

B160481 People (Not for Publication)
v.
Daniels

The order of commitment is affirmed.

Gilbert, P.J.

We concur: Yegan, J.
Coffee, J.

DIVISION SEVEN

[illegible]

The convictions of attempted voluntary manslaughter in counts two through four are affirmed. The conviction of second-degree murder in count one is reversed and the cause remanded for further proceedings consistent with this opinion.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B164283 People v. Vielmas (Not for Publication)

The judgment is affirmed.

Johnson, J.

We concur: Perluss, P.J.
Woods, J.

B155148 MacKenzie (Not for Publication)
v.
Riverside Medical Bldg., et al.

The judgment is affirmed. Respondent(s) to recover costs.

Woods, J.

We concur: Perluss, P.J.
Johnson, J.

DIVISION SEVEN (Continued)

B166060 Monica M. (Not for Publication)

v.

Superior Court, Los Angeles County
(In re Raul M., r.p.i.)

The stay of proceedings issued April 29, 2003, is vacated. The matter is remanded to the juvenile court, which is directed to vacate its present order of visitation; promptly conduct a hearing to evaluate Monica's present capacity to participate in visitation with Raul; order a suitable program of visitation, granting discretion to the Department of Children and Family Services to liberalize the visits, with a view to reestablishing the visitation which was in place prior to April 30, 2002; and set a date for the new section 366.26 hearing no sooner than 120 days following the initial hearing conducted pursuant to this opinion.

Woods, J.

We concur: Perluss, P.J.
 Johnson, J.

B159397 Vita (Not for Publication)

v.

Southern California Permanente Medical Group

The judgment is affirmed, and the order awarding costs is reversed and remanded with directions to enter a costs order awarding only non-discretionary costs. Respondent to recover costs on appeal.

Woods, J.

We concur: Perluss, P.J.
 Johnson, J.

DIVISION SEVEN (Continued)

B153521 Agnew (Not for Publication)
v.
California State Board of Equalization

The judgment is affirmed in part and remanded to the trial court to do the following: (1) As the tax on Agnew must be measured by the consideration received for "his interest" (and not Sahadi's) under Annotation 395.0760, the tax should be recalculated to reflect only those shares for which Agnew was paid; (2) because the Board admittedly never noticed or assessed a use tax against Agnew, the taxable amount should not include the 11 shares sold while Desert Wine was out of state; (3) As the statement of decision did not address these issues despite Agnew's initial and subsequent requests, the trial court must decide the proper treatment in the sale of (a) the first two shares, (b) the single share sold in 1985, and (c) the half-share sold for resale; (4) once the tax amount has been redetermined in light of these instructions, the interest amount must be recalculated accordingly; and (5) with respect to the interest amount, Agnew should be restored to the position he would have been in if the Board did not improperly retain his payment of interest pending resolution of his claim for refund after the Supreme Court's decision invalidating the Board's policy in this regard. In all other respects, the judgment is affirmed. Each side is to bear its own costs.

Woods, J.

We concur: Perluss, P.J.
Johnson, J.

B165239 Roberts
v.
Wright

B165419 Wright
v.
Roberts

Filed order consolidating above captioned appeals.